IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.415 of 2007
Date of Decision: 12.1.2007

The Executive Engineer, PWD (B&R) Division, Bhiwani

Petitioner

versus

Narender Kumar and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE BALDEV SINGH

Present: Shri Hareesh Rathi, Addl.A.G. Haryana, Advocate

for the petitioner

Jasbir Singh, J. (Oral)

By filing this writ petition, a prayer has been made to issue a writ of certiorari, to quash award dated 3.2.2006, passed by the Industrial Tribunal-cum-Labour Court Rohtak. It is not in dispute that the respondent workman was taken in service, on daily wages, by the petitioner management. His service was terminated on 28.2.2000, he submitted his claim application, when reconciliation proceedings failed, the matter was referred to the Industrial Tribunal, for adjudication. The Tribunal below, on appraisal of evidence, came to a conclusion that in the relevant year, the workman had worked for 240 days. Following passage from the award indicates in that regard:-

> "*But it has not been prepared correctly, because the workman has summoned WW-2 and he has brought the service record of the workman from April 1999 to February 2000. According to this witness in the month of April 1999 the workman has worked for full month i.e. 30 days, in the month of May 1999 he worked for 30 days, in the month of August 1999 he worked for 31 days, in the month of September 1999 he worked for full month i.e. 31 days, in the month of November 1999 he worked full month i.e. 31 days, in the month of November 1999 he worked for full month i.e. 30 days, in the month of January 2000 he worked for 31 days and in the month of February he worked for 29 days. If these days are counted the total of the same comes to 242 days and in this way the mgt., was not at liberty to terminate the service of the workman in the manner as has been done and in this way service of the workman has been terminated on violation of provisions of Section 25-F of the Industrial Disputes Act and it has also failed to comply with mandatory provisions of Chapter 5-A of the aforesaid Act."*

To prove that the respondent workman had worked for 240 days, he summoned official from the office of the petitioner, who came and deposed on the basis of service record of the workman that he had worked for 242 days. It is an admitted fact that when service of the respondent workman was terminated, simultaneously, he was not given any retrenchment compensation. As per document Ex.M22, the compensation was offered much after the date of termination. The Tribunal below, in view of facts mentioned above, has rightly come to a conclusion that on account

of violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947 his termination was not justified. As such, reinstatement of the workman in service is perfectly justified. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

January 12, 2007
gk

(Baldev Singh)
Judge